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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/521,446	07/22/2005	Katsumi Sekiguchi	264719US90PCT	8801
22850	7590	09/17/2008		
OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C. 1940 DUKE STREET ALEXANDRIA, VA 22314			EXAMINER NILANONT, YOUAPORN	
			ART UNIT	PAPER NUMBER
			4121	
			NOTIFICATION DATE	DELIVERY MODE
			09/17/2008	ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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<b>Office Action Summary</b>	<b>Application No.</b> 10/521,446	<b>Applicant(s)</b> SEKIGUCHI ET AL.	
	<b>Examiner</b> YOUAPORN NILANONT	<b>Art Unit</b> 4121	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-9 is/are pending in the application.  
     4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 January 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
     a) ☐ All    b) ☐ Some \* c) ☒ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |                                                                                        |                                                                   |
|----------------------------------------------------------------------------------------|-------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. ____.                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>03/18/2005, 12/01/2006, 04/06/2007, 08/17/2007.</u>           | 6) <input type="checkbox"/> Other: ____.                          |



## **DETAILED ACTION**

### ***Priority***

1. Acknowledgment is made of applicant's claim for foreign priority based on an application filed in Japan on July 17<sup>th</sup>, 2002. It is noted, however, that the International Bureau has not provided a copy the 2002-208729 application as required by 35 U.S.C. 119(b). See the list of items received as indicated on the Notice of Acceptance (form PCT/DO/EO/903) mailed September 1, 2005.

### ***Drawings***

2. Figures 5 and 6 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). Corrected drawings in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claim 1-3 and 5-8 are rejected under 35 U.S.C. 102(b) as being anticipated by Tsubone et al. (Japanese Laid-open Application Publication No. H10-271161A).

With respect to claim 1, Tsubone reference teaches a communication control system (see Tsubone, drawing 1 “session control system”), comprising: a server (see drawing 1 and [0015], “server 12”) connected to a communication network (see drawing 1 and [0015], “IP network 10”); a client (see drawing 1 and [0015], “client 15-1”) configured to make a connection request to the server through the communication network; a relay device configured to include a server-side connection terminal (see drawing 1 and [0016], “first network interface 32”) connected to the server and a client-side connection terminal (see drawing 1 and [0016], “second network interface 33”) connected to the client, and to relay communications between the server and the client (see drawing 1 and [0015], “repeating installation 30”); an establishment holder configured to hold a response signal from being transmitted from the client-side connection terminal to the client, when the client-side connection terminal receives a connection request signal from the client (see drawing 1, “session monitoring department 31”, drawing 2, and [0024] lines 4-9. Since the response packet 45 was not a result of session establishment with the server, the response packet 45 resided in the repeating installation 30 from the beginning. Thus, it is understood that there's a mean to store such response packet in the repeating installation 30); a decider configured to detect a connection state of the server-side connection

Art Unit: 4121

terminal in response to the connection request signal, and to decide whether or not a connection can be established between the server-side connection terminal and the server (see drawing 1, "session monitoring department 31", [0020] lines 8-9, [0021] line 10, and [0024] lines 4-7); and a relay processor configured to transmit the response signal held by the establishment holder, and to establish communications between the client and the server so as to perform relay processing, depending on a result of decision made by the decider (see drawing 1, "session monitoring department 31", [0021] lines 10-14, [0022] lines 5-10, and [0023] lines 8-12).

With respect to claim 2, Tsubone reference further teaches the communication control system of claim 1 further comprising a charging processor configured to execute charging processing on the client, when communications are established between the server and the server-side connection terminal, and when communications are established between the client and the client-side connection terminal (see drawing 1, "information management department 34" and [0024] lines 7-10, it is understood that "the real time information" is distributed from server to client thus, "the number of bytes" cited as accounting information implies existence of connection between client and server).

With respect to claim 3, Tsubone reference further teaches the communication control system according to claim 1, wherein the decider is configured to forward the connection request signal from the client to the server (see drawing 2 and [0017], "the second session connection request packet 41"), and to decide (see drawing 2, "session setup processing 60") whether or not

Art Unit: 4121

communications can be established between the server-side connection terminal and the server, based on a response signal transmitted from the server in response to the forwarding (see drawing 2 and [0017], “first session connection response packet 42”).

With respect to claim 5, Tsubone reference teaches a communication control method for controlling communications between a client (see drawing 1 and [0007], “client 15-1”) and a server (see drawing 1 and [0007], “server 12”) through a relay device (see drawing 1 and [0015], “repeating installation 30”), the method comprising:

holding a response signal to the client when receiving a connection request signal from the client, in the relay device (see drawing 2);

detecting a connection state of the server-side connection terminal in response to the connection request signal, and deciding whether or not a connection can be established between the relay device and the server, in the relay device (see [0022], “if the first connection response packet 42...” and drawing 2); and

transmitting the response signal held (see [0022] “...output the second session connection response packet 43 to the client 15-1” and drawing 2), and

establishing communications between the client and the server so as to perform relay processing, when it is decided that communications are established between the relay device and the server, in the relay device (see drawing 2, “message distribution processing 61” and [0024] lines 3-6).

With respect to claim 6, Tsubone reference teaches a relay device which relays communications between a client and a server, comprising:

Art Unit: 4121

a client-side connection terminal connected to the client (see Tsubone, drawing 1 and [0016], "second network interface 33");

a server-side connection terminal connected to the server (see Tsubone, drawing 1 and [0016], "first network interface 32");

an establishment holder configured to hold a response signal from being transmitted from the client-side connection terminal to the client, when the client-side connection terminal receives a connection request signal from the client (see drawing 1, "session monitoring department 31", drawing 2, and [0024] lines 4-9. Since the response packet 45 was not a result of session establishment with the server, the response packet 45 resided in the repeating installation 30 from the beginning. Thus, it is understood that there's a mean to store such response packet in the repeating installation 30);

a decider configured to detect a connection state of the server-side connection terminal in response to the connection request signal, and to decide whether or not a connection can be established between the server-side connection terminal and the server (see drawing 1, "session monitoring department 31" , [0020] lines 8-9, [0021] line 10, and [0024] lines 4-7); and

a relay processor configured to transmit the response signal held by the establishment holder, and to establish communications between the client and the server so as to perform relay processor, depending on a result of decision made by the decider (see drawing 1, "session monitoring department 31", [0021] lines 10-14, [0022] lines 5-10, and [0023] lines 8-12).



With respect to claim 7, Tsubone reference further teaches the relay device according to claim 6, further comprising a charging processor configured to execute charging processing on the client, when communications are established between the server and the server-side connection terminal, and when communications are established between the client and the client-side connection terminal (see drawing 1, "information management department 34" and [0024] lines 7-10 as cited above with respect to claim 2 rejection).

With respect to claim 8, Tsubone reference further teaches the relay device according to claim 6, wherein the decider is configured to forward the connection request from the client to the server (see drawing 2, "the second session connection request packet 41"), and to decide (see drawing 2, "session setup processing 60") whether or not communications can be established between the server-side connection terminal and the server, based on a response signal transmitted from the server in response to this forwarding (see drawing 2 "first session connection response packet 42").

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Art Unit: 4121

6. Claims 4 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tsubone et al. (Japanese Laid-open Application Publication No. H10-271161A) in view of Nakajima (U.S. Patent Application No. 2001/0046212).

With respect to claim 4, Tsubone reference teaches the communication control system according to claim 1 however, it does not further disclose a system comprising a discard processor configured to release the holding state of the establishment holder, and to transmit a discard notification to the client via the client-side connection terminal, when communications are not established between the server-side connection terminal and the server. Conversely, Nakajima reference discloses such limitation (see Nakajima, figure 11 steps S2-S3). It would have been obvious to the person having ordinary skill in the art, at the time the invention was made, to have applied Nakajima's method of notifying the requester that the requested destination is unavailable, in order to release any network resources held by the requestor that maybe of use for other clients.

With respect to claim 9, Tsubone reference teaches the relay device according to claim 6, but it does not further disclose a discard processor configured to release the holding state of the establishment holder, and to transmit a discard notification to the client via the client-side connection terminal, when communications are not established between the server-side connection terminal and the server. The Nakajima reference, on the other hand, teaches such limitation (see Nakajima, figure 11 steps S2-S3). Please see rejection and rationale cited for claim 4 above.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to YOUPAPORN NILANONT whose telephone number is (571)270-5655. The examiner can normally be reached on Monday through Thursday and alternate Friday at 7:30AM-5PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David L. Robertson can be reached on 571-272-4186. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Y. N./  
Youpaporn Nilanont  
Examiner, Art Unit 4121  
9/12/2008

/David L. Robertson/  
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